Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975.

No. 75-1171

LASALLE NATIONAL BANK, AS TRUSTEE ETC.,
Petitioner,

vs.

COUNTY BOARD OF SCHOOL TRUSTEES OF DUPAGE COUNTY; HINSDALE ELEMENTARY SCHOOL DISTRICT 181; AND MAC DIARMID-PALUMBO, INC.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

BRIEF OF RESPONDENT SCHOOL DISTRICT IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI.

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STATEMENT OF THE CASE.

Because the statement of this simple case is garbled in the Petition for the Writ of Certiorari, it may be useful briefly to restate the nature of the case. In 1970, respondent school authorities acquired land by eminent domain for a new school house. The 1970 Judgment of the trial court in that action, entered by agreement of the parties, awarded the former owner (petitioner here) $360,000 for "fee simple title" to the land. The Judgment, from which no appeal was taken, also found that there was no damage to the remainder of petitioner's land.

Subsequently, it was determined to build the new school house elsewhere. Therefore, in 1972 respondent school authorities sought to sell the land at auction (as is required by Illinois law).

Petitioner then brought this state court action to require the school authorities to reconvey the land to it in return for the 1970 condemnation price or for an award of damages.

The Supreme Court of Illinois held that petitioner's claims here were barred by the *res judicata* effect of the 1970 eminent domain judgment. The 1970 order awarding fee simple title to the school authorities was held to be conclusive of the petitioner's present claim of a reverter interest in the land.

ARGUMENT.

Certiorari should not issue here for the following reasons:

1. No federal question of importance is at issue.

2. The decision of the Illinois Supreme Court was based on an adequate independent state ground, the state law doctrine of *res judicata.*

3. Petitioner's principal assertion that it was denied equal protection because trial courts in similar cases reached contrary results is absurd.

4. The Petition for a Writ of Certiorari fails to comply with the requirement of Rule 23(f) of the Rules of this Court. It fails to show that the constitutional issues argued here were adequately raised below. In fact, they were not.

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CONCLUSION.

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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March 5, 1976.